

MEMORANDUM

SUBJECT: City of Custer Water Right Application No. 1251-2

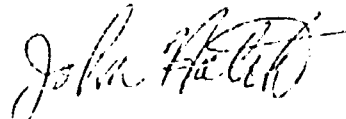
TO: File

FROM: John Hatch, Chief Engineer, Water Rights Commission

DATE: January 7, 1976

William Young, Mayor, City of Custer, was in the Office January 7, 1976, concerning the City of Custer's deferred water right application 1251-2. A letter dated November 21, 1975 written to the City of Custer by myself at the request of the Commission requested an explanation from the City as to why the City of Custer did not follow proper procedures in obtaining a water right permit. The Commission wanted to know if Mr. Doyle Johnson and Mrs. Donald Wendt, owners of the domestic wells which were apparently effected by pumping from the Custer Well No. 7 were now completely satisfied. Mr. Young stated that the City has attempted to satisfy Mr. Johnson and Mrs. Wendt by permitting them to connect to the City water system. Mayor Young stated that he believed the question as to who should pay for the connection to the City water supply is a matter which should be between the City and the Johnsons or Mrs. Wendt.

There was no intent by the City to not comply with the law. Mayor Young was elected during April 1975, prior to that time Jack Pentleton, President of the Council, served as Acting Mayor following the resignation of the previous Mayor. With the change in city mayors, Mayor Young did not believe that all of the details were tended to as they should have been. The Mayor is requesting that the City's deferred application be approved at the January 22-23, 1976 meeting.



JOHN HATCH, CHIEF ENGINEER
WATER RIGHTS COMMISSION

Re: 1251-2

January 12, 1976

William Young, Mayor
City of Custer
Custer, SD 57730

Dear Mayor Young:

The deferred City of Custer's Water Right Application No. 1251-2 will be reconsidered by the Water Rights Commission during their January 22-23, 1976 meeting, at 10:00 AM January 23, 1976. Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish & Parks in the Sigurd Anderson Building, Pierre, SD 57501. Please advise if you have any questions concerning the hearing.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

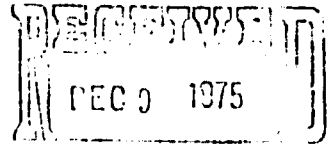
JH:rlm

cc Jerry Baldwin, Attorney

City of Custer City
South Dakota

OFFICE OF THE MAYOR

December 8, 1975



STATE WATER RIGHTS
DIVISION - SOUTH DAKOTA

Mr. John Hatch
Water Rights Commission
State of South Dakota
Pierre, S. D. 57501

Dear Mr. Hatch:

I am enclosing a copy of a letter dated December 5, 1975, from Mrs. Donald Wendt. Undoubtedly it was precipitated by your letter, much as I had anticipated.

I would advise you that the City of Custer agreed only to allow Mrs. Wendt to attach to the city water supply, provided that she pay rates. At no time have we indicated that we authorized or would be responsible for the expenses shown on this letter. Both individuals made their own contracts for installation. Until your letter, they had paid their water charges as billed.

I would appreciate knowing your position in regard to this letter, but before any more decisions are made or opinions given, I would respectfully request that you confer with the Attorney General or one of his staff, as to the legal issues and implications involved.

Sincerely,

A handwritten signature in dark ink, appearing to be "G. M. Baldwin".

Gerald M. Baldwin

GMB:cw

cc: Mayor William Young, Sr.

SCENIC AND HISTORIC CENTER
OF THE BLACK HILLS

Cedar, Wyoming 82718
February 18, 1976

Department of Natural Resource Development
Water Rights Commission
Office Building Number 2
Pierre, South Dakota 57501

Re: 1251-2 Water Permit

Gentlemen;

The City Councilmen of Custer called Mr. Johnson and I to a closed meeting February 2, 1976 at 3:00 at which we presented the bills for piping the water to our places. Nothing has been done since but they are taking it to the Attorney General.

The City has been pumping water from that well since May and some before without a permit so I think it is time they go by the law or stop pumping and close the well. I think if they can't settle this by April 1, 1976 they will keep putting it off until they get their other well working then stop pumping this one ~~xxx~~ then and we will be out of water again.

The Mayor ask me what I would do if they stopped pumping that well. I told him he would have to plug the well from the bottom and we would have to put our pump back in. Nothing else was said at the meeting after that.

I don't know what can be done but I think there should be a time limit on this Application.

I know you men do a good job and are very fair to every one as I have watched you work and you have a hard job.

Thank you

Mrs Donald Wendt
Mrs. Donald Wendt





STATE OF SOUTH DAKOTA

OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
Pierre, South Dakota 57501

File 1251-2

RECEIVED

MAR 26 1976

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

WILLIAM J. JANKLOW
ATTORNEY GENERAL

March 24, 1976

Mr. Gerald M. Baldwin
Mayor of Custer
Custer, South Dakota

MEMORANDUM OPINION NO. 76-33

Custer's application for a well permit

Dear Mr. Baldwin:

This is in regard to your letter of February 24, 1976, concerning Custer's application for a well permit to the State Water Rights Commission.

When Betty Hendrickson, the Custer Finance Officer, visited this office regarding Custer's application for a well permit from the State Water Rights Commission, she raised the question whether the Commission could lawfully condition the permit for Custer upon the adjoining landowners being "completely satisfied". The facts submitted indicate that the local wells in the area of the city well would be affected by the city well and that the Commission has therefore required the city to allow certain adjoining parties to hook on to the water main. From your letter you state that the adjoining landowners initially agreed to install their own lines but have subsequently insisted on being reimbursed for their installation expenses despite the fact they had previously agreed to pay for their own hookup. Evidently, as you state in your letter, the Commission is now holding up final approval of the permit for the city until they are assured that these adjoining landowners are "completely satisfied", meaning that the city must now evidently reimburse the adjoining landowners for their hookup costs before the Commission will approve the cities permit.

Several things are disturbing about the fact situation you present. First of all it appears that the Water Rights Commission has taken an unusual amount of time in making its decision in regard to this matter. According to the fact situation you present almost a year has expired since the filing of the application with the Commission. Within this period of time it would certainly seem that a final decision of the Commission should be made.

Mr. Gerald H. Baldwin
MEMORANDUM OPINION NO. 76-33
March 24, 1976
Page 2

Perhaps a reason for the delay is that the Commission has simply conditioned its final approval on the owners of domestic wells affected by the Custer city well being "completely satisfied". From your letter you indicate that during the past year these adjoining landowners have not been entirely consistent as to what will satisfy them. This of course points up the problem of the Commission using nebulous and unclear conditions for the approval of the permit for Custer. If the Commission leaves the conditions to be met to be a matter for the determination of the local landowners, which may change from time to time, the city may never get them satisfied. The Commission does not have the power to delegate their decision making to the discretion of the adjoining landowners.

It is also my understanding that there has been a disagreement over what responsibility the city has to pay for the hookup to the city system by the adjoining landowners whose wells the Commission has deemed to be adversely affected by the city well. From discussing this question with Betty Hendrickson, it seems that the city was being required to not only offer a hookup, but to do so at a cost in excess of what it would have cost the city to do it themselves. Evidently what has happened is that the adjoining landowners originally had the hookup work done and now seek to be reimbursed for such work. Had the city done so on a contract basis, they could have done so for an amount less than the individuals involved had the work done for.

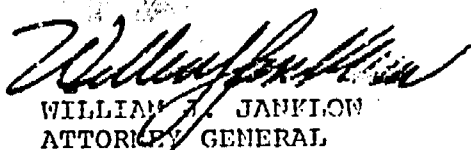
It appears to me that the Commission can require the city of Custer to allow and provide for a hookup by these adjoining well owners as a condition to the granting of the permit for the city of Custer. It does not appear to me however to be reasonable to require the city to pay for this hookup in an amount in excess of what it would have cost the city to do so. It would be my judgement that if it appears the adjoining landowners initially agreed to do the hookup themselves, they should not now be able to come in and require the city to reimburse them for such hookup in excess of the cost for which the city could have done the hookup.

Mr. Gerald M. Baldwin
MEMORANDUM OPINION NO. 76-33
March 24, 1976
Page 3

I fully recognize that I am writing this without the benefit of extensive personal involvement in the fact situation involved. It is my hope however that the Commission, the City and the adjoining landowners get together in a responsible manner and get this matter resolved.

A carbon copy of this opinion is being sent to the Secretary of the Department of Natural Resource Development in the hope that some of the thoughts expressed herein may be of some assistance to the Water Rights Commission in reviewing the status of the Custer application.

Sincerely,



WILLIAM J. JANKLOW
ATTORNEY GENERAL

WJJ:DOC:rw

cc: Natural Resource Development

Re: 1251-2

January 28, 1976

William Young, Mayor
City of Custer
Custer, SD 57730

Dear Mayor Young:

The Water Rights Commission again deferred action on the City of Custer's water right application No. 1251-2 at the Commission meeting January 23, 1976, pending receipt of information that Mr. Doyle Johnson and Mrs. Donald Wendt, owners of domestic wells near Custer Well No. 7 are provided domestic water supplies in a satisfactory manner. Although Mr. Johnson and Mrs. Wendt have been allowed to connect to the city water system, Mr. Johnson and Mrs. Wendt both indicated to the Commission at the hearing January 23, 1976 that they were not satisfied with the arrangements and were required to absorb the expense of laying lines to the water main. It is the Commission's belief that such arrangements do not meet the intent of the law to either protect domestic use or to provide suitable water supplies for such domestic use.

If you have any questions on this matter, please feel free to contact this office.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:nm

cc Jerald M. Baldwin, City Attorney, Custer, SD 57730
Doyle Johnson, R. R. #1, Custer, SD 57730
Mrs. Donald Wendt, Beulah, Wyoming 82712

Re: 1251-2

November 21, 1975

Jack Pendleton, Mayor
and Members of the City Council
City of Custer
Custer, S. D. 57730

Gentlemen:

The Water Rights Commission has requested that we contact you concerning the City of Custer water right application No. 1251-2. The Commission deferred action on this water right at its May 21-22, 1975 meeting, pending an investigation by the Commission Staff. An investigation was conducted in the Custer area September 24, 1975 and a report prepared. A copy of this report was mailed to your consulting engineer and to Mr. Jerry Baldwin, City Attorney.

The Commission reconsidered your application at the regular meeting November 12-13, 1975; however, they again deferred action on the application until the January 22-23, 1976 meeting pending receipt of an explanation from the City of Custer as to why the City did not follow proper procedures in obtaining this water right permit.

State law requires that a water right permit to appropriate water for beneficial use must be issued prior to any construction of works for storing or carrying of water. The Commission is quite concerned that proper procedures were not followed to obtain the water right permit for your new well prior to construction of the well and pipeline and use of the water. They also would like to know if Mr. Doyle Johnson and Mrs. Donald Wendt, owners of the domestic wells affected by pumping from the Custer Well No. 7 are now completely satisfied?

Please advise if you have any questions on this matter.

Very truly yours,

JH:nlm

John Hatch, Director
Water Rights Division

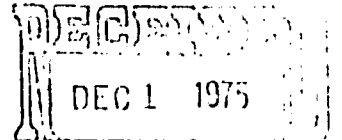
cc Mr. Doyle Johnson
Mrs. Donald Wendt
Jerry Baldwin, City Attorney
Robert C. Bakewell, Jr., Attorney

City of Custer City

South Dakota

OFFICE OF THE MAYOR

November 26, 1975



Mr. John Hatch
Water Rights Commission
State of South Dakota
Pierre, S. D. 57501

Dear Mr. Hatch:

I am in receipt of the copy of your letter dated November 21, 1975, directed to Jack Pendleton as Mayor of the City of Custer. Please be advised that our Mayor is Mr. William Young, and Mr. Pendleton has never been the Mayor of the City of Custer. I will bring your letter to the attention of the Council at its next regular meeting, but I would presently advise you as follows:

In the several discussions I have had with you or your staff, we have repeatedly advised that an application for a permit was made at the time of your exploratory drilling. The then Mayor, Gene Reese, definitely recalls executing the application; Mr. Sperlich, the City Engineer, recalls having prepared the application; and the City Finance Officer, Betty Hendrickson, recalls mailing it to the Environmental Protection Agency, as it was necessary to demonstrate the permit before our funding was granted. I cannot explain where the application was mislaid, but certainly we had no intent to bypass or ignore the statutory requirements or your Commission. It would be ridiculous to believe that the City of Custer would spend a large amount of money for a well and pipeline for a deliberately illegal project. As soon as we were advised that the application was mislaid, we immediately reapplied. I had trusted that our apologies and explanations were received and understood by you and the Commission, and certainly it has not been mentioned in our last several discussions if this was yet a problem.

SCENIC AND HISTORIC CENTER
OF THE BLACK HILLS

Mr. John Hatch
November 24, 1975
Page Two

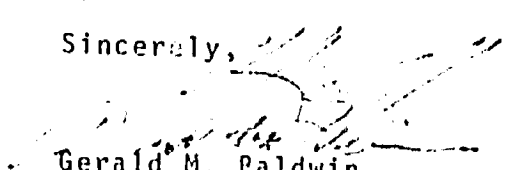
In regard to Mr. Johnson and Mrs. Wendt, I believe the situation to be satisfactory, as I have heard nothing since I last visited with you. I am very disturbed with the attitude you have taken in that regard. I believe you are demonstrating a definite prejudice and partiality against the City of Custer, and for those individuals. Again in your November 21st letter, you make the blatant presumption that their wells were "affected" by the Custer City Well, and I am unaware of any basis for your conclusion. The City had never intended to deprive anyone of their water supply, and stood ready to meet any legal obligation that we had. We had, however, reliable information that the wells of those individuals were shallow and in disrepair, before the city well was drilled. Mr. Johnson refused to allow us to conduct draw-down tests to substantiate if in fact we were affecting his well. Another well in the very immediate proximity of the Johnson well was cleaned out and drilled to a depth of 80 feet, and it has never been affected by the City Well.

We have agreed to provide water to Mr. Johnson and Mrs. Wendt, despite the fact that we felt no legal responsibility. We had the water available, and you suggested a quiet compromise, which we felt was effected. Those individuals agreed to install their own lines and pay rates to the City for the water used. I believe that these contracts were freely made, and that those individuals would now not be able to complain of the terms of those contracts.

By your letter, and its inferences, I feel you are stirring up a matter that we had hoped to be resolved. Your attitude seems to be that we have an absolute liability to those individuals, and with your backing their attitude may well now be that the City should pay for their installation and provide them free water.

We did not appear at the meeting, again because we assumed that the Johnson-Wendt matter had been satisfactorily resolved, and based on your letter of recommendation. If this explanation is not satisfactory, will you kindly advise in order that we can have representatives present at the January meeting. We respectfully request approval of the permit.

Sincerely,


Gerald M. Baldwin

GMB:cw

REPORT ON CITY OF CUSTER'S WATER RIGHT APPLICATION 1251-2
October 22, 1975

At the May 21-22, 1975 meeting, the Water Rights Commission deferred action on the City of Custer Water Right Application No. 1251-2, pending investigation by the Commission staff. An investigation was conducted in the Custer area September 24, 1975.

Custer well No. 7 was located and drilled in the French Creek area two miles west of Custer (Section 28, Township 3S., Range 4E.), based upon the advice of Dr. Jack Redden, director of the Experiment Station, South Dakota School of Mines and Technology. The well is located in an aquifer behind a "vertical dike" where a fault has displaced a large vertical-dipping pegmatite. Geologists have advised that the new Custer well is probably taking water from the faulted and fractured bedrock aquifer, as well as the overlying saturated alluvial material. The dike separates the Custer well No. 7 aquifer from an aquifer further south and southeast.

According to geologists, wells owned by Mr. Doyle Johnson and Mrs. Donald Wendt and a well serving a vacant home behind the Johnson home, are the only wells known to be located in the same aquifer as the Custer well. Other wells located to the south and southeast of the Custer well and the dike are in a separate aquifer, and should not be affected by the Custer well. Visits with Mrs. Fern Hogg, who is 0.6 of a mile east of the Custer well; W. Brummett, 0.4 of a mile southeast of the Custer well; Albert Swartz, southeast of the Custer well; and Elmer Flatt, manager of the Black Hills Electric Co-op Inc., about 3/4 miles south of the well, seemed to verify the statements made by the geologists. They were concerned with a possible water shortage; however, all reported no water quantity problems since the Custer City well has been placed in operation. Water from well No. 7 was first pumped into the city distribution system February 25, 1975. Pump tests were first conducted during March, 1974.

Mr. Johnson's well is about 400 feet northeast from the Custer well and was reported by him to be about 80 feet deep when drilled; the pump setting is about 36 feet. The pump could not be lowered because the well had apparently caved or silted in below the pump. The day of the visit to Mr. Johnson's home, September 24, 1975, we tried to measure the well static water level, but the static water level could not be measured because we could not get the tape weight past the pump.

Mrs. Wendt's well is about 850 feet east of the Custer well and was reported to be about 40 feet deep. Her well needed to be drilled deeper and repaired before the pump could be lowered. Her tenants apparently could get water when the City well was turned off.

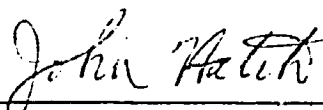
The Custer City well was drilled 240 feet deep with the pump setting at about 122 feet. The static water level when the City well was constructed was 18 feet. September 24, 1975, the static water level after the well pump had been turned off for 22 hours was 42.2 feet.

Mr. Johnson and Mrs. Wendt are now connected to the City water system. Both Mr. Johnson and Mrs. Wendt believe that the City should pay their hook-up costs; however, this is a matter that should be resolved between the City of Custer and Mr. Johnson and Mrs. Wendt, not by the Water Rights Commission.

Since both Mr. Johnson and Mrs. Wendt are connected to the City water system, it would appear that the Water Rights Commission can approve Custer's application for a water right.

The staff recommends that the City of Custer water right application 1251-2 be approved with the following qualifications:

The well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The well owner, under this Permit, shall control his withdrawals so there is not a reduction of needed water supplies in existing domestic wells, or make arrangements with the affected well owners to deliver needed water supplies.



John Hatch, Chief Engineer
Division of Water Rights



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

Re: 1251-2

May 17, 1976

William Young, Mayor
City of Custer
Custer, SD 57730

Dear Mayor Young:

The deferred City of Custer's Water Right Application No. 1251-2 will be reconsidered by the Water Rights Commission during their May 20-21, 1976 meeting, at 10:00 AM May 21, 1976. Copies of unsigned releases for Mr. Doyle Johnson and Mrs. Donald Wendt have been received. May we receive a copy of each signed release? Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish and Parks in the Sigurd Anderson Building, Pierre, SD 57501. Please advise if you have any questions concerning the hearing.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Burton F. Jones".

Burton F. Jones, Water Rights Specialist
Water Rights Commission

BFJ:nlm

cc: Jerry Baldwin, City Attorney
Doyle Johnson
Mrs. Donald Wendt

AGREEMENT

THIS AGREEMENT made and entered by and between Doyle M. Johnson and Lila Johnson, husband and wife, Custer County, South Dakota, and the City of Custer City, a municipal corporation, Custer County, South Dakota, witnesseth:

The City of Custer hereby agrees to pay to the said Doyle M. Johnson and Lila Johnson, the sum of Seven Hundred Thirty-six Dollars and Sixteen Cents (\$736.16) for the payment of the installation of one certain water system on property in the vicinity of the Custer City Well at Upper French Creek, Custer County, South Dakota, forthwith upon execution of this agreement.

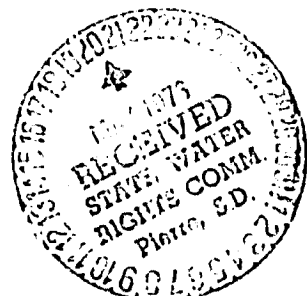
Owners, Doyle M. Johnson and Lila Johnson, upon receipt of the payment aforesaid, do hereby release and discharge the City of Custer City, its agents and assigns, from all claim, demand, or liability of every nature whatsoever as may now exist or hereafter arise, pertaining to the operation, maintenance, or use of the Custer City French Creek Water Well.

This agreement shall be binding upon the said Doyle M. Johnson and Lila Johnson, their successors, assigns, and shall run with and be binding upon their said real property.

Dated this 25 day of April, 1976.


Doyle M. Johnson

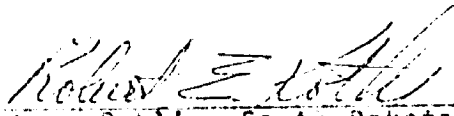

Lila Johnson



STATE OF SOUTH DAKOTA }
COUNTY OF CUSTER } SS

On this the 23rd day of April, 1976, before me, Robert E. Kothe, a Notary Public, personally appeared Doyle H. Johnson and Lila Johnson, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.


Notary Public, South Dakota

ROBERT E. KOTHE
Notary Public, CUSTER CO., S. DAK.
My Commission Expires Sept. 24, 1977

My commission expires:

September 24, 1977

(SEAL)

AGREEMENT

THIS AGREEMENT made and entered by and between Michael Dailey and Peggy Dailey, husband and wife, Custer County, South Dakota, and the City of Custer City, a municipal corporation, Custer County, South Dakota, witnesseth:

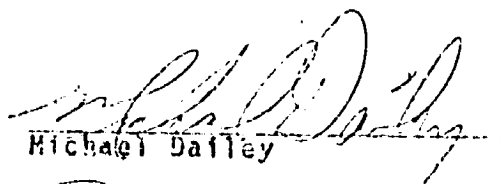
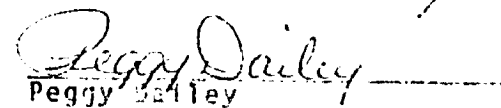
The City of Custer hereby agrees to pay to the said Michael Dailey and Peggy Dailey, the sum of Six hundred twenty two dollars and twenty five cents

for the payment of the installation of one certain water system on property in the vicinity of the Custer City Well at upper French Creek, Custer County, South Dakota, forthwith upon execution of this agreement.

Owners, Michael Dailey and Peggy Dailey, upon receipt of the payment aforesaid, do hereby release and discharge the City of Custer City, its agents and assigns, from all claim, demand, or liability of every nature whatsoever as may now exist or hereafter arise, pertaining to the operation, maintenance, or use of the Custer City French Creek Water Well.

This agreement shall be binding upon the said Michael Dailey and Peggy Dailey, their successors, assigns, and shall run with and be binding upon their said real property.

Dated this ____ day of _____, 1976.


Michael Dailey

Peggy Dailey



STATE OF SOUTH DAKOTA)
COUNTY OF CUSTER) SS

On this the 2 day of MAY, 1976,
before me, John A. Sheffer, a Notary Public,
personally appeared Michael Dailey and Peggy Dailey, known
to me or satisfactorily proven to be the persons whose
names are subscribed to the within instrument and acknow-
ledged that they executed the same for the purposes
therein contained.

IN WITNESS WHEREOF I hereunto set my hand and
official seal.


Notary Public, South Dakota

My commission expires:

JOHN C. SHUTER, Notary Public
Custer County, South Dakota
My Commission Expires Sept. 18, 1983.

(SEAL)

AGREEMENT

THIS AGREEMENT made and entered by and between Donald and Grace Wendt, husband and wife, Custer County, South Dakota, and the City of Custer City, a municipal corporation, Custer County, South Dakota, witnesseth:

The City of Custer hereby agrees to pay to the said Donald Wendt and Grace Wendt, the sum of One Thousand One Hundred Twenty-five Dollars and Eighty-seven Cents (\$1,125.87) for the payment of the installation of one certain water system on property in the vicinity of the Custer City Well at Upper French Creek, Custer County, South Dakota, forthwith upon execution of this agreement.

Owners, Donald Wendt and Grace Wendt, upon receipt of the payment aforesaid, do hereby release and discharge the City of Custer City, its agents and assigns, from all claim, demand, or liability of every nature whatsoever as may now exist or hereafter arise, pertaining to the operation, maintenance, or use of the Custer City French Creek Water Well.

This agreement shall be binding upon the said Doyle M. Johnson and Lila Johnson, their successors, assigns, and shall run with and be binding upon their said real property.

Dated this 12 day of April, 1976.

Donald Wendt
Donald Wendt

Grace Wendt
Grace Wendt



STATE OF WYOMING

COUNTY OF Crook

} SS

On this the 22 day of April, 1976,
before me, Donald Wendt & Grace Wendt, a Notary Public,
personally appeared Donald and Grace Wendt, known to me or
satisfactorily proven to be the persons whose names are
subscribed to the within instrument and acknowledged that
they executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and
official seal.


Notary Public, Wyoming

My commission expires:

8-19-79

(SEAL)

PUMPING OF THE NEW CITY WELL AT THIS TIME. IF ARRANGEMENTS COULD BE MADE TO MEASURE WATER LEVELS IN WELLS THOUGHT TO BE AFFECTED BY PUMPING OF THE CITY WELL, THIS WOULD MORE CONCLUSIVELY DETERMINE WHETHER OR NOT THEY ARE BEING AFFECTED. WATER LEVEL DATA SHOULD ALSO BE OBTAINED FOR DIFFERENT TIMES OF THE YEAR TO DETERMINE SEASONAL FLUCTUATIONS OF THE GROUNDWATER TABLE. EXTRA WATER LEVEL MEASUREMENTS SHOULD BE TAKEN FROM OBSERVATION WELL, INSTALLED AROUND THE WELL. WE CAN INSTALL THESE OBSERVATION WELLS WITH OUR DRILL RIG.

SEASONAL FLUCTUATIONS OF WATER LEVELS IN WATER TABLE AQUIFERS SUCH AS THE NEW CUSTER CITY WELL AQUIFER CAN VARY SEVERAL FEET. IN EXCESSIVELY DRY YEARS, WATER LEVELS COULD DROP, EFFECTIVELY "DRYING UP" SHALLOWER WELLS THAT DID NOT AT LEAST PENETRATE THE FULL SATURATED AQUIFER THICKNESS.

IN MY OPINION, MR. JOHNSON SHOULD BE ALLOWED TO TAP THE TRANSMISSION LINE AND GET WATER FROM THE CITY.

IF YOU HAVE ANY QUESTIONS CONCERNING THE CITY WELL OR NEED ANY FURTHER INFORMATION, PLEASE ADVISE.

VERY TRULY YOURS,

FRANCIS - MEADOR - GELLHAUS, INC.

E. HARLAN GELLHAUS, P.E.

EHG/skp

ENCLOSURE

CC: FILE #2341

SOUTH DAKOTA
SCHOOL OF MINES
AND TECHNOLOGY



RAPID CITY, SOUTH DAKOTA 57701

ENGINEERING AND MINING EXPERIMENT STATION

March 24, 1975

Mr. Terry Yarger
Francis-Meador-Gellhaus, Inc.
1823 West Main
Rapid City, SD 57701

Dear Mr. Yarger:

In answer to your request, the following is a summary of my recollections concerning the City of Custer water well.

During the summer of 1973 while working for the U.S. Geological Survey in mapping the Custer quadrangle, I noted from the local papers that Custer was having some problems with water supply. Having mapped the adjacent Berne quadrangle, I was aware of a very favorable site above Custer on French Creek where a fault displaced a large vertical-dipping pegmatite. Because of the alluvium cover, the fault was not readily noted on the original geologic map.

On one particular day when we had a heavy early morning rain (and I didn't want to get my feet wet to start off with) I stopped by Custer Lumber to talk with Gene Reese, Custer's mayor, and tell him about the site. He was sufficiently impressed that we took 20 minutes off and drove out to the site so he knew exactly where I meant. I don't remember specifically our conversation but I do know we talked about extra costs of pipeline, right of way, etc. My memory is not clear but I think we discussed the problem of obtaining permission to drill and came up with the conclusion that it probably could be obtained by some type of agreement of water use by whomever owned the land. My specific comment to Gene was that I didn't know of a better well site based on geologic grounds.

That was my direct involvement. Later on Gene told me that they had gone ahead with the drilling and had apparently completed a very excellent well.

I hope the above will be of help to you.

Sincerely,

A handwritten signature in cursive script, reading "Jack A. Redden".

Jack A. Redden, Director
Experiment Station

JAR/hb

RECEIVED
MAR 25 1975
P. M. B. 122.



FRANCIS-MEADOR-GELLHAUS, INC.

1823 West Main, Rapid City, South Dakota 57701
AC 605/342-4105

OCTOBER 8, 1975

MR. JOHN HATCH
WATER RIGHT DIVISION
WATER RESOURCES DEPT.
PIERRE, SOUTH DAKOTA 57501

RE: WATER RIGHTS APPLICATION NO. 1251-2
CUSTER CITY, SOUTH DAKOTA

DEAR MR. HATCH:

IN ACCORDANCE WITH OUR TELEPHONE CONVERSATION OF SEPTEMBER 7, 1975, WE ARE HEREWITH SENDING TO YOU ALL THE INFORMATION WE HAVE CONCERNING CUSTER'S WATER RIGHTS APPLICATION. THIS TRANSMITTAL INCLUDES OUR DRAWDOWN TEST DATA AND LETTERS FROM JOHN GRIES AND JACK REDDEN, SOUTH DAKOTA SCHOOL OF MINES & TECHNOLOGY. LETTERS FROM GERALD BALDWIN, CUSTER CITY ATTORNEY, DOUG SPERLICH AND E. HARLAN GELLHAUS OF FRANCIS - MEADOR - GELLHAUS, INC., ARE ALSO INCLUDED.

IF YOU REQUIRE ADDITIONAL INFORMATION, PLEASE ADVISE.

VERY TRULY YOURS,

FRANCIS - MEADOR - GELLHAUS, INC.

Douglas Sperlich

DOUGLAS SPERLICH, E.I.T.

DS/DN

CC: CUSTER CITY
FILE #2341.2

DEPTH OF WATER LEVEL IN FEET

RAIN WAS STOPPED
AT 5:45 PM 2/27/74

50

100

150

200

250

300

350

400

450

ELAPSED TIME IN HOURS

FROM 12:00 PM TO 11:55 PM
TOP OF CASING

REMARKS: SALT CRAP
AT 2:30 PM 2/27/74

10.0

20.0

30.0

40.0

50.0

STATION WATER LEVEL
12.5 IN. FROM TOP OF CASING

30 PM, 2/27/74

40 PM, 2/27/74

File Copy

MAR 26 1974

RMG, Inc

DEPTH OF WATER, FEET IN FLET

10 20 30 40 50

0

5

10

15

20

25

30

35

40

45

50

ELAPSED TIME IN MINUTES

Sample taken
from 100 feet

5000 5000

5000 5000

File Copy

MAR 26 1974

R.M.G. Inc

DRAWDOWN MEASUREMENTS

TIME	ELAPSED TIME	DEPTH	
3/23/74 5:40pm	START	17'-6" 0	PUMP WAS SET TO 1
5:43	3 min	37' 6.5	DEPTH OF 113'-6" TO THE INLET
5:48	8 min	42' 30.5	ALL MEASUREMENTS ARE TAKEN
5:54	14 min	49' 31.5	FROM THE TOP OF THE 10"
6:00	20 min	49' 31.5	CASING. PUMP WAS STOPPED
6:10	30 min	50' 32.5	AT 5:40 PM, 3/23/74 AND STOPPED
6:15	40 min	50'-6" 33.0	AT 5:45 PM, 3/23/74. THE BACK
6:30 pm	50 min	52'-6" 35.6	PRESSURE ON THE PUMP WAS
3/23/74 11:10 am	1050 min	56' 38.5	30 PSI - 40 PSI AND PUMP
5:40 pm	1500 min	56'-10" 39.33	OUTPUT WAS 290 gpm: 430 gpm
3/23/74 8:20 am	2300 min	56' 38.5	
8:50 pm	2510 min	56'-9" 39.25	
3/23/74 10:15 am	2885 min	58'-3" 40.75	
11:05 pm	410 min	58'-6" 41.00	
11:10	410 min	STOP	
11:40	4100 min	28'	
11:45	4145 min	25'-6"	
11:45	4145 min	25'-3"	
11:50	4150 min	30'-6"	
11:55	4155 min	29'-3"	
12:00	4160 min	28'-3"	
12:10	4200 min	28'	
12:15 pm	4205 min	25'-6"	

41.3
21.5

File Copy
MAR 26 1974
F.H.G. Inc.

JOHN PAUL GRIES

Consulting Geologist
723 ST. CHARLES STREET
RAPID CITY, SOUTH DAKOTA

November 10, 1974

Mr. Doyle Johnson
French Creek Road
Custer, S. Dak.

Dear Mr. Johnson:

The following notes summarize information pertaining to your water problem:

1974
Prior to the pumping test last summer, the static level of water in the city's new 240-foot well was reported to be at 15' 6".

Toward the end of a 72-hour test, pumping at 400 gpm, the pumping level was reported to be at 53' 6" below the surface. The top of the pump was 116 feet below the ground, and the intake was about 6 feet deeper or at 122 feet.

During this test period, there is no report that adjacent wells were affected.

Later, from about August 20 to September 10th, 1974, the city well was pumped 24 hours a day at a rate of about 400 gpm. From then until October 1st, the well was pumped at the same discharge rate, but intermittently, either days or nights only but not both.

1974
On September 27th, the Johnson well failed, as did the well at the small gray house owned by Mrs. Wendt.

The water level recovered sufficiently one day after the city ceased pumping so that Mrs. Wendt's well returned to service, and after an additional day, the Johnson well was back in production.

The permanent pump placed in the city well has a pumping capacity of 200 to 250 gpm. It is set about 6 feet lower than the test pump.

According to Mrs. Lena Boyan, the family who lives on her place above the city well report that French Creek had ceased to flow this year by the last week in June.

From the above sequence of events, it is apparent that protracted pumping of the new city well definitely affected other wells in the vicinity. Although no footage measurements are available, the water level was reduced to a point below the pump intakes at both the Johnson and Wendt properties.

JOHN PAUL GRIES

Consulting Geologist

218 ST. CHARLES STREET
RAPID CITY, SOUTH DAKOTA

Johnson -2-

It may be suggested that the new pump, with a capacity of less than 250 gpm will not affect these adjacent wells. But at the time the wells failed, the city was only pumping half days at the 400 gpm rate. Spreading this withdrawal out on a 24-hour basis, the city was pumping at roughly 200 gpm, which is less than the potential rate at which the final city well will be produced.

As we discussed on October 29th, it is essential that you have some precise data on static levels in two or three nearby wells before the new city well goes into production. I suggested a series of at least three weekly readings, to demonstrate any seasonal change in water level not associated with the pumping. Should the matter go to court, you would also need to know the precise elevations of the city well and the observation wells, and the depth of pump settings on all wells.

When the city well goes into service, you should have daily readings on your well, preferably taken at least an hour after your own pump has been shut off. If the house up behind your place is still unoccupied, that well could be used as an observation well.

I am convinced that deeper water encountered in fractures in the bedrock is interconnected with water in the gravels in the valley bottom, and that recharge to the deeper rocks is from the subflow in the valley fill. With French Creek not flowing to recharge the gravels in the valley bottom, I suspect that the city may have pulled the water level in the valley down much farther than the 58.5 feet measured during the 72-hour pumping test. This raises some doubt in my mind as to whether the new well will stand up under protracted pumping during dry summer months. I think, therefore, that the city has as much at stake as you do in the water availability in upper French Creek valley, and that they should cooperate in making any measurements possible prior to, and during, subsequent use of the new well.

Yours very truly,



J. P. Gries
Certified Professional Geologist
No. 7731

JPG/mo

cc: Mr. Butler

RECEIVED
MAR 2 1975
F - H - E - 107

City of Custer City

South Dakota

OFFICE OF THE MAYOR

March 20, 1975

Mr. Doyle Johnson
Custer, S. D. 57730

Re: Custer City Water Well

Dear Mr. Johnson:

Please be advised that the intended testing of your well and the Custer City Well is not possible because your pump is set at approximately 36 feet. It is my understanding that in order to determine if the city's well does effect your well, it would be necessary to test the two wells at the same time. Apparently it will be necessary for you to pull your pump in order to perform these tests, and if you wish to do so, please advise the city engineer when this will be done.

We have also submitted the question, along with Doctor Gries's letter, to the main office of Francis, Meador and Gellhaus, who in turn are consulting the individuals who conducted the first studies and advised the city at the time of drilling the well. Any results or advice in that regard will be immediately transmitted to you.

Sincerely,

Gerald M. Baldwin
Custer City Attorney

GMB:cw

cc: Jack Pendleton
cc: Francis-Meador-Gellhaus, Inc.

SCENIC AND HISTORIC CENTER
OF THE BLACK HILLS

RECEIVED
MAR 21 1975



FRANCIS-MEADOR-GELLHAUS, INC.

1823 West Main, Rapid City, South Dakota 57701
AC 605/342-4105

March 20, 1975

Francis-Meador-Gellhaus, Inc.
1823 W. Main
Rapid City, S. D. 57701

Attn: Harlan Gellhaus

Re: Custer Water Well #7 - French Creek Well

Harlan:

The City well has been pumping 180 gpm 11-12 hours a day for approximately 3 weeks. Mr. Doyle Johnson has claimed the City well has been draining his well. Mr. Johnson's pump is 36' deep, measured from the top of the casing. The water level is 34' from the top of the casing when the City well is pumped and recovers approximately 3' when the City pump is shut-off for 48 hours. Mr. Johnson does not know the depth of his well but believes it was drilled to 70' but has silted in some since then. Mr. Johnson has enough water in his well to enable him to get by without hauling water but they do no clothes washing at home.

The City would like the following information to help them to determine if they should allow Mr. Johnson to tap the City transmission line and assume liability for Mr. Johnson's shortage of water.

- 1) Letter summarizing your telephone conversation with Dr. Paul Gries, March 18, 1975, P.M. concerning his letter of November 10, 1974 to Mr. Doyle Johnson. (copy enclosed)
- 2) Geologist's report or letter on the availability of subsurface water above the pegmatite intrusion in the French Creek valley. If no such report exists, please document all conversations and letters concerning the location of this well.

Harlan Gellhaus
March 20, 1975
Page two

- 3) Opinion from yourself and/or geologists stating the possibility of a 40' deep water well going dry in a year as dry as 1974-1975 with or without the aid of a deep well some 300' away. This deep well is pumping approximately 130,000-160,000 gpd.

After receiving the above information, the City Council will decide if they should assume responsibility and allow Mr. Johnson to tap the transmission line.

We plan to run a 72 hour drawdown test on the City well #7 next week, March 24th.

If you have any questions concerning the City well or the Doyle Johnson well, please advise.

Very truly yours,

FRANCIS-MEADOR-GELLHAUS, INC.

Douglas Sperlich

Douglas Sperlich, E.I.T.

RECEIVED
MAR 21 1975
F-M-G, INC.

October 6, 1975

Mr. Robert C. Bakewell, Jr.
34 North 6th
Custer, SD 57730

Dear Mr. Bakewell:

This will acknowledge your letter concerning the Custer City water right application 1257-2. We have not completed the report. We hope to complete the report within the next two weeks.

Very truly yours,

John Hatch
Chief Engineer

JH/tb

LAW OFFICES OF
ROBERT C. BAKEWELL, JR.
34 NORTH 6TH
CUSTER, SOUTH DAKOTA 57730
TELEPHONE 605-673-2213

October 1, 1975

Department of Natural Resources Development
Division of Water Rights
State Office Building No. 2
Pierre, South Dakota 57501

Attention: Vern W. Butler, Secretary

Dear Mr. Butler:

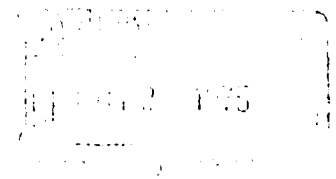
When you were here relative to the Custer City Well, we visited, and it was my understanding that you would advise me as to your findings resulting from your visit with those parties who have filed objections to the granting of the permit for the well. Particularly am I interested in the prospects for settling this matter by the City allowing these persons to hook onto their line, and I am wondering if you received any reaction from them along that line.

May I hear from you in this regard.

Very truly yours,


Robert C. Bakewell, Jr.

RCB/ljb



Original Filed
May 17, 1975

PETITION FOR CHANGE IN PLACE OF
HEARING AND COMPLAINT AS TO LOCATION
AND USE OF CUSTER CITY WATER WELL

TO THE WATER RIGHTS COMMISSION, DEPARTMENT OF NATURAL RESOURCES, STATE OF SOUTH DAKOTA, PIERRE, SOUTH DAKOTA:

We, the undersigned, being residents and/or property owners all located within a radius of one-half mile of Custer City Well #7, concerning which Water Right Application No. 1251-2 of the City of Custer City has been filed with the aforesaid Water Rights Commission for hearing on 21st day of May, 1975, at the hour of 2:30 o'clock P. M., D.S.T., hereby protest the granting of said Water Right Application for the reason that the use of said well by the City of Custer City has diminished the water supply of water wells used or owned by us to the extent and under conditions as set forth in the attached Affidavits, and we individually and collectively feel that the continued and possible expanded use by the City of Custer City of said Well No. 7 will not only deprive us of necessary water supplies but will seriously diminish the value of our respective properties.

We, the undersigned, hereby further complain in writing under the provisions of SDCL 46-6-7 as to the location of said well and hereby petition the aforesaid Water Rights Commission to forthwith proceed to examine the location of said well and determine from its topography and proximity to other wells, whether same has not and will not hereafter interfere with wells already completed or in the course of completion and situated in close proximity, and to thereafter file with the Clerk of Courts of Custer County, South Dakota, a statement of its decision and findings.

We, the undersigned, hereby further petition the aforesaid Water Rights Commission to either redesignate the place and time for hearing upon Water Right Application No. 1251-2 to a place in or in the immediate vicinity of the City of Custer City in order that they may be better informed as to matters pertaining to said Application, and for the convenience of the undersigned Petitioners, or in lieu thereof that decision on said Application not be made on the 21st day of May, 1975, and a representative or representatives of said Commission be designated to meet with the undersigned at a place in or near the City of Custer City at a time and date to be then specified for the purpose of further consideration of said Application.

NAME	LOCATION OF PROPERTY	DATE OF SIGNING
<i>Frank A. Nelson</i>	<i>W. 1/4 Sec. 10, T. 12 N., R. 10 E., S. 14</i>	<i>5-15-75</i>
<i>Edgar B. Nelson</i>	<i>S. 1/4 T. 12 N., R. 10 E., S. 14</i>	<i>5-15-75</i>
<i>John A. Nelson</i>	<i>Box 1 (Beech)</i>	<i>5-15-75</i>
<i>Wendell B. Nelson</i>	<i>T. 9 N., R. 10 E., S. 14</i>	<i>4-21-75</i>
<i>Mr. L. C. Nelson</i>	<i>W. 1/4 Sec. 10, T. 12 N., R. 10 E., S. 14</i>	<i>5-15-75</i>
<i>Michael D. Nelson</i>	<i>Box 1 (Beech)</i>	<i>5-15-75</i>
<i>Frank A. Nelson</i>	<i>W. 1/4 Sec. 10, T. 12 N., R. 10 E., S. 14</i>	<i>5-15-75</i>



Black Hills Electric Cooperative, Inc.

Post Office Box 112

Telephone 605-673-4461

Custer, South Dakota
57730

September 29, 1975



Mr. John Hatch, Chief Engineer
State of South Dakota
Department of
Natural Resource Development
State Office Building #2
Pierre, South Dakota 57501

Dear John,

In regards to the water well at the Black Hills Electric Cooperative, the findings on 11 March 1975 were:

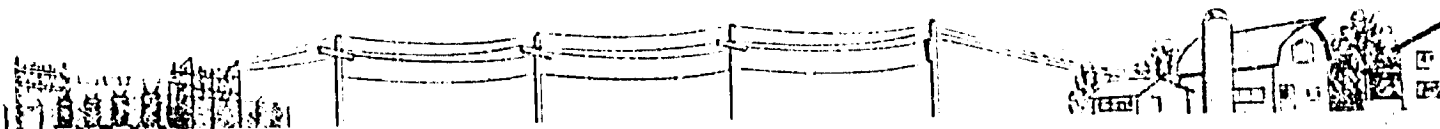
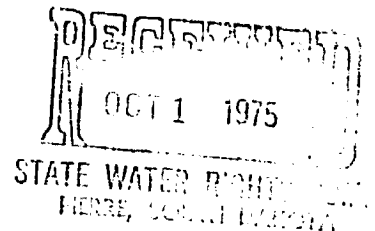
Water level from the ground line is 16feet. The pipe footage is 40 feet, plus a distance of 8 feet from the ground line, to where the pipe taps in going to the building.

Hope this is the information you need.

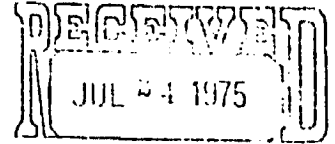
Sincerely yours,

Elmer Flatt
Elmer Flatt
Manager

ef/ms



LAW OFFICES OF
ROBERT C. BAKEWELL, JR.
34 NORTH 6th
CUSTER, SOUTH DAKOTA 57730
TELEPHONE 605-673-2213



STATE WATER RIGHTS COMMISSION
PIERRE, SOUTH DAKOTA

July 23, 1975

Department of Natural Resource Development
Water Rights Commission
State of South Dakota
Office Building Number 2
Pierre, South Dakota 57501

Re: Water Rights Application No. 1251-2-
City of Custer City

Gentlemen:

You will recall that I appeared at your meeting held on the 21st day of May, 1975, in behalf of sixteen (16) objectors signing a petition which I then filed with you relative to the above mentioned water rights application in regard to a well designated as Well No. 7 by the City of Custer City.

The petition as filed at the above time under the provisions of SDCL 46-6-7 requested, as provided in that section, that your Commission proceed to examine the location of said well and determine from its topography and proximity to other wells whether said well had not and would not thereafter interfere with wells already completed. In response to this petition you have indicated that you do not feel that SDCL 46-6-7 is pertinent in that it is under a Chapter covering artesian wells. I respectfully call to your attention, however, that the general Chapter under which this is found refers to "ground water and wells", and generally it deals with both artesian waters and other ground water wells. Also, it is our contention that under the provisions of SDCL 46-6-6 that you have the authority to impose such rules and regulations relative to the use of municipal wells as will protect other wells in the immediate area.

Notwithstanding the above, however, it is our position that a well which was dug without the issuance of a permit cannot later be made legal by the issuance of a permit to then drill the well, with complete disregard of all other wells in the area, as if this were so, every person or municipality could, after drilling an illegal well, then appear before your Commission and ask that their illegal act be made legal.

Department of Natural Resource Development
Water Rights Commission
Pierre, South Dakota 57501

July 23, 1975
Page 2

Re: Water Rights Application No. 1251-2-City of Custer City

Because of a conflict in my schedule, it is not going to be possible for me to be present at the meeting to be held on July 24, 1975, at Surbeck Center, but I respectfully request that this letter be included in your minutes as an objection to the granting of this permit, in that if appropriate provisions are not made to protect the interests of these objectors should their wells be so adversely affected so as to warrant same, it is our intention to later take such legal steps as are appropriate to enjoin the use of this well, which it can only be presumed the municipality intends to continue to use regardless of whether a permit is issued.

Respectfully submitted,


Robert C. Bakewell, Jr.

RCB/ljb

Custer Well #1
W.R. permit appl. 1251-2

9-24-75

Notes from visits in Custer Area.

We contacted the following:

1. Robert C. Bakerwell, Jr. Attorney

2. Doyle Johnson 673-4264 9-24-75
R.R. 1, Custer.

The distance between City well & Johnson well is about 400'. Appl. stated 50 rods or $16.5 \times 50 = 825$ ft.

hook up fee was ^(#7.5 in town) \$100 plus \$47 for meter
Gallage, rate is same as what city residents pay minus the sewer charges they pay.

Pump setting in well is approximately 36 feet

Mr. Johnson reported the well was about 80 feet deep when drilled, but has apparently caved or silted in below the pump; thus the pump setting could not be lowered.

The day of the visit he could pump no water. We tried to measure the water level, but could not because the weight would not slip past the pump.

He had been connected to the city water system, but was complaining because of lack of

Water pressure. Service was only 1" (I believe) - cost \$258 installed. Plumbing in house may not actually be quite large enough although it was satisfactory before from the change over - we did not check the plumbing, would have been better off to install a larger service line - about \$600 fut.

Johnson feels the City should pay the ~~\$258~~^{\$650} installation fee.

Johnson believes they have been treated unfairly and unjustly and that their water has been stolen.

is Green { Were w/o water September 27, 1974 when city was pumping well - when city ceased pumping w/ 1 day Johnson were able to pump their well

Mrs. Donald Wendt (Buckah, Wyo) has rental property near City Well (Foley name on mail box), about 850 feet from well. No one was at property. Has space for 3 mobile homes. Has had been connected to City Water system the week we were there (9-24-75). Well was in need of repair & thus pumping could not be resumed. She apparently could get water when City Well was turned off. A 2" meter was installed for the ~~prop~~ service connection. Mrs. Wendt believes City should pay part of hook-up & ^{installation} cost. Hook up fee was \$2.00

When did they start putting pipe for trailers?

Well is about 40' deep

Dr. Grace { Mrs. W. and the reported outages at some time Johnson's did.

Jerry Ballman, City Attorney

Custer City Well #7 appl for 1.0 cts

Drill hole 14" 240' deep
 Screen - 75' of perforated 7"
 Depth to ^{top} Water formation 165' ← 1/2 thick figure
 " to bottom of water formation 240'
 thickness 75'
 Depth to Water 18'

from appl.

9-24-75 @ 5:10 p.m. "static" water level below ground was 42.2 feet. Well had not been pumped since previous day 9-23-75 when it was turned off at 7:30 p.m. had pumped 12 hours 9-23-75.

Gauge pressure (down) when pumping was reported to be at 29 (55.7 feet) 9-24-75 when standing for 22 hours was 22 (city main pressure at well-house was 50 psi).

gauge not
 not been
 calibrated

Started pumping Well ^{to system} Feb. 25, 1975 4

Month Date	Water Use (gallons)	GPM
March	3,933,000	170
April		170
May		170
June	7,329,000	170
July	7,678,000	170
Aug	6,232,000	170 until Aug 9 then started to drop. Dropped to 110 gpm then leveled off at 125 gpm.

Aquifer
was being
depleted
somewhat

9-23-75 was pumping at 125 gpm.

Aug 12 Mrs. Wendt called to advise she was out of water.

Pump tests (72 hrs) originally conducted @ 400 gpm
3-20-74 to 3-23-74

Director Experimental Station - St. Charles, Minn.

Dr. Jack Radden - advised Mayor Reese, Astoria on well location. Summer, 1973 - location is on French Creek behind a vertical "dike" (where a fault displaced a large vertical-dipping pegmatite) which provides for larger alluvial deposition which would likely have a larger storage capacity.

Geologic map The new well is probably taking water from the faulted and fractured bedrock aquifer as well as the overlying saturated alluvial materials. There is not a/s recharge to the well.

Other Well owners contacted 9-24-75

Mrs. Fern Hegg .6 miles^{SE} from City Well
143' deep well, drilled 1960
100' to water

Reported no water problems. Had
not watered grass this past
summer.

Farm place .6 mile above
City Well
They have spring - ^{reported} no change
in spring flow noticed even
though 2 months w/o rain

W. Brummott .4 mile S.E. of
City well 101' deep 60' to water

Ray Brummott has a water right
reported no water quantity problem

Albert Swartz S.E. of City Well
reports no water problems

Black Hills Electric Coop. Inc.
Elmer F. Latt, Manager
about $\frac{3}{4}$ mile S. of Well
Well drilled 1952 21.5' deep
 $\frac{1}{2}$ horse jet pump
Their readings March 11, 1975
16 feet to water
injection set at 48'
Reported no water problems - are eligible for ^{water} ~~water~~

we suggested
to all well
owners
that they
use the
water they
normally
use including
lawn
watering.

10-7-75

Doug Sperlick - Francis - Stader - Gellhaus

Telephone conversation - he advised Custer Well was located based upon recommendation of Dr. ~~Jack A. Rader~~ ^{Jack A. Rader} ~~Harry Rader~~. Dr. Cores was ~~not~~ brought into the matter by Mr. Johnson.

Mr. Sperlick advised he would send ^{me} copies of reports & info pertaining to the well location & pump tests.

When well was drilled static water level was at 18'. They conducted a 72 hour pump test @ 450 gpm w/ maximum drawdown of 59'. Well recovered to 26'.

There has been no formal letter of complaint by Mr. Johnson or Mrs. Wendt to the Custer City Council concerning the cost of connection or complaining about Mr. Johnson or Mrs. Wendt having to pay for the installation of their water service.

Geologists say that there is a geological dike to the south of the Custer Well which separates the aquifer from the an aquifer further SE.

Geologists say there is a large alluvium deposit aquifer in the valley w/ no outside recharge.

The static water level dropped because of depletion of the aquifer - dry summer no rain for recharge. Gpm dropped because pump was pumping against greater head.

is ^{one} other well at home 7
I think Johnson's.

Mrs. Wendt & Mr. Johnson are only two wells located in the same aquifer (according to Geologists) as the Custer Well - behind the dike. Others located S. E. of Custer Well are supplied by a separate aquifer and should not be affected by the Custer Well.

Mrs. Wendt was going to fix her well, but when Johnson's were permitted to connect to city water, then she did the same also.

Mr. Johnson reported he was losing well capacity in March, 1915, before frost went out. Then frost went out and snow melt recharged aquifer & he had no problem until aquifer was depleted later in the summer to be below his pump intake.

Custer is not pumping now and will not until spring unless water is needed. Will save water until peak water use in spring & summer.

This is not an artesian aquifer

REPORT ON CITY OF CUSTER'S WATER RIGHT APPLICATION 1251-2
October 22, 1975

At the May 21-22, 1975 meeting, the Water Rights Commission deferred action on the City of Custer Water Right Application No. 1251-2, pending investigation by the Commission staff. An investigation was conducted in the Custer area September 24, 1975.

Custer well No. 7 was located and drilled in the French Creek area two miles west of Custer (Section 28, Township 3S., Range 4E.), based upon the advice of Dr. Jack Redden, director of the Experiment Station, South Dakota School of Mines and Technology. The well is located in an aquifer behind a "vertical dike" where a fault has displaced a large vertical-dipping pegmatite. Geologists have advised that the new Custer well is probably taking water from the faulted and fractured bedrock aquifer, as well as the overlying saturated alluvial material. The dike separates the Custer well No. 7 aquifer from an aquifer further south and southeast.

According to geologists, wells owned by Mr. Doyle Johnson and Mrs. Donald Wendt and a well serving a vacant home behind the Johnson home, are the only wells known to be located in the same aquifer as the Custer well. Other wells located to the south and southeast of the Custer well and the dike are in a separate aquifer, and should not be effected by the Custer well. Visits with Mrs. Fern Hegg, who is 0.6 of a mile east of the Custer well; W. Brummett, 0.4 of a mile southeast of the Custer well; Albert Swartz, southeast of the Custer well; and Elmer Flatt, manager of the Black Hills Electric Co-op Inc., about 3/4 miles south of the well, seemed to verify the statements made by the geologists. They were concerned with a possible water shortage; however, all reported no water quantity problems since the Custer City well has been placed in operation. Water from well No. 7 was first pumped into the city distribution system February 25, 1975. Pump tests were first conducted during March, 1974.

Mr. Johnson's well is about 400 feet northeast from the Custer well and was reported by him to be about 80 feet deep when drilled; the pump setting is about 36 feet. The pump could not be lowered because the well had apparently caved or silted in below the pump. The day of the visit to Mr. Johnson's home, September 24, 1975, we tried to measure the well static water level, but the static water level could not be measured because we could not get the tape weight past the pump.

Mrs. Wendt's well is about 850 feet east of the Custer well and was reported to be about 40 feet deep. Her well needed to be drilled deeper and repaired before the pump could be lowered. Her tenants apparently could get water when the City well was turned off.

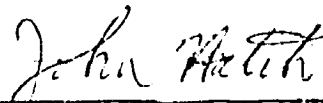
The Custer City well was drilled 240 feet deep with the pump setting at about 122 feet. The static water level when the City well was constructed was 18 feet. September 24, 1975, the static water level after the well pump had been turned off for 22 hours was 42.2 feet.

Mr. Johnson and Mrs. Wendt are now connected to the City water system. Both Mr. Johnson and Mrs. Wendt believe that the City should pay their hook-up costs; however, this is a matter that should be resolved between the City of Custer and Mr. Johnson and Mrs. Wendt, not by the Water Rights Commission.

Since both Mr. Johnson and Mrs. Wendt are connected to the City water system, it would appear that the Water Rights Commission can approve Custer's application for a water right.

The staff recommends that the City of Custer water right application 1251-2 be approved with the following qualifications:

The well approved under this Permit is located near domestic wells which may obtain water from the same aquifer. The well owner, under this Permit, shall control his withdrawals so there is not a reduction of needed water supplies in existing domestic wells, or make arrangements with the affected well owners to deliver needed water supplies.



John Hatch, Chief Engineer
Division of Water Rights

LAW OFFICES OF
ROBERT C. BAKEWELL, JR.
34 NORTH 6TH
CUSTER, SOUTH DAKOTA 57730
TELEPHONE (605) 673-2213

November 4, 1975

Department of Natural Resource Development
Water Rights Commission
Office Building No. 2
Pierre, South Dakota 57501

Re: Custer City Water Right Application
1251-2

Gentlemen:

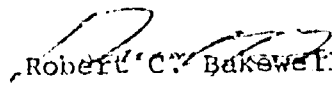
Mr. John Hatch, your Chief Engineer, has accommodated me in accordance with your prior commitment in supplying me with his report dated October 22, 1975, as to his findings in relation to the above application, and I sincerely appreciate the effort which has gone into his analysis and recommendation, which I am disposed to feel is undoubtedly accurate and equitable.

However, as a matter of suggestion, I note that there is an observation that some of these wells, and in particular the well of Black Hills Electric Cooperative, Inc., is separated by a dike which may indicate that it is in a separate aquifer, but in that this appears to be based upon mere speculation, may I suggest that your wording of the approval be such that if it be determined in the future that other wells are in fact affected, regardless of any assumption that they are or are not in the same aquifer, that the permit as issued to the City be qualified so as to require that they likewise make arrangements with those particular water users to deliver needed water supplies. This might be particularly important in that quite possibly there could be other development in this area which while not presently affected could be deprived of necessary water in the future.

Your consideration of this matter will be appreciated.

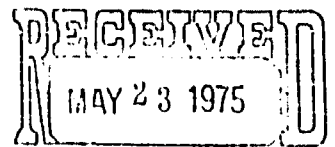
Very truly yours,

RCB/ljb


Robert C. Bakewell, Jr.

LAW OFFICES OF
ROBERT C. BAKEWELL, JR.
34 NORTH 65
CUSTER, SOUTH DAKOTA 57730
TELEPHONE 605-673-2212

May 22, 1975



STATE WATER RIGHTS COMM.
PIERRE, SOUTH DAKOTA

Department of Natural Resources Development
Water Rights Commission
Office Building #2
Pierre, South Dakota 57501

Re: Water Right Application #1251-2
City of Custer City

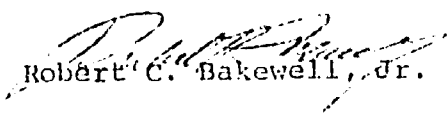
Gentlemen:

When there for the hearing on the above matter yesterday, at which time the hearing was in fact deferred due to the fact that no Affidavit of Publication had been filed, but where you graciously allowed me to make my presentation, I neglected to request of you that in addition to noting my presence that you note in your minutes that a written objection had been filed under the provisions of SDCL 46-6-7.

Undoubtedly, in that the Petition which I filed with you in fact so states, this is probably sufficient, but I would appreciate it if you would make this further notation, and also I would call to your attention the fact that such being the case under the provisions of SDCL 46-6-8 that it requires that within five (5) days after your examination that you file a written statement of your decision on the matter with the Clerk of Courts of the county where the well is located, which would, of course, be the Clerk of Courts of Custer County. Also, it would be my interpretation that in that a complaint in writing has been filed that the examination of the location and the filing of your statement with the Clerk of Courts should precede your decision upon the granting or not granting of the application.

Thank you for your courtesies in this matter.

Respectfully yours,


Robert C. Bakewell, Jr.

RCB/ljb

City of Custer City

South Dakota

RECEIVED

JUN 02 1975

DEPT. OF NATURAL
RESOURCE DEVELOPMENT

OFFICE OF THE MAYOR

May 29, 1975

Water Rights Commission
Capitol Building
Pierre, S. D. 57501

Re: Water Rights Application #1251-2 City of Custer City

Gentlemen:

I am in receipt of a letter from Mr. Bakewell of this city, advising that he has appeared before you in representation of several property owners objecting to the issuance of a water permit for the new Custer City well. He advises that you have resolved to inspect the well site, prior to your decision.

I would first advise you that the well was located by the engineering firm of Francis, Meador and Gellhaus, Inc., and with consultation by staff of the South Dakota School of Mines and Technology in Rapid City. You may wish to confer with them in regard to their geological studies. We will be happy to assist in any other testing or surveying that you will wish to conduct.

I would further advise that a number of the people who have signed the petition, previously have appeared at the Custer City Council meeting, in this concern. At that time, only one of the parties was having any problem with his well, and we determined the well is a very shallow well. I am enclosing a copy of a letter which I have forwarded to Mr. Johnson, offering to test the drawdown of the city well in comparison to the drawdown of his well, in order to determine if there was any effect to his well by the city well. Mr. Johnson has of this date, not allowed this test to be conducted. The people appearing at the council meeting requested to connect to the new well, but ordinance of the City of Custer prohibit the providing of municipal sewer or water unless the users annex to the city.

SCENIC AND HISTORIC CENTER
OF THE BLACK HILLS

Water Rights Commission
May 29, 1975
Page two

The city certainly does not wish to harm anyone's water supply, and if it were established that this well did in fact detract from their water supply, we would make arrangements for compensation. We have, however, relied on the reports of engineers and geologists who located the well in a place thought to have an abundant water supply, and further are of the opinion that this well could not possibly affect private wells in the area. We have received no proof from the complainants, and our offer to check their complaint has been refused.

Will you kindly advise us in advance as to when you would propose to visit the well site, and as to any information that we can supply. Thank you.

Sincerely,

Gerald M. Baldwin
Custer City Attorney

GMB:cw

cc: Robert C. Bakewell, Jr.
cc: Francis, Meador, Gellhaus, Inc.
cc: Mayor, City of Custer

RECEIVED

JUN 02 1975

**DEPT. OF
RESOURCE**

March 20, 1975

Mr. Doyle Johnson
Custer, S. D. 57730

Re: Custer City Water Well

Dear Mr. Johnson:

Please be advised that the intended testing of your well and the Custer City Well is not possible because your pump is set at approximately 36 feet. It is my understanding that in order to determine if the city's well does effect your well, it would be necessary to test the two wells at the same time. Apparently it will be necessary for you to pull your pump in order to perform these tests, and if you wish to do so, please advise the city engineer when this will be done.

We have also submitted the question, along with Doctor Gries's letter, to the main office of Francis, Heador and Gellhaus, who in turn are consulting the individuals who conducted the first studies and advised the city at the time of drilling the well. Any results or advice in that regard will be immediately transmitted to you.

Sincerely,

Gerald H. Baldwin
Custer City Attorney

GHB:cv

cc: Jack Riedleton
cc: Francis-Heador-Gellhaus, Inc.

AUG 12, 1975

9:15 AM - CALL FROM MRS DON WENDT,
BUELAH, WYO (307-643-2189)
SHE HAS PROPERTY (HES^{TRACTED} #21, IN
SE¹, SEC 28 & SW¹, SE¹ 27, T3S, R4E)
NEAR CUSTER CITY WELL #7. SHE
HAS RENTAL UNITS (CABINS) AND
THEY ARE OUT OF WATER. HER WELL
IS APPROX 40' DEEP. SAID SHE HAD
CONTACTED CITY BUT NO SATISFACTION.
673.4824 AT 10:50 I CALLED JERRY RACWIN,
CITY ATTY FOR CUSTER & TOLD HIM
OF PHONE CALL. HE WAS NOT AWARE
MRS WENDT HAD CONTACTED CITY,
BUT AGREED TO CHECK WITH THE
CITY ENGINEER & WATER DEPT. & GET
BACK TO US.

3:45 - CALL FROM MR RACWIN - STATES
THEY WERE TO HAVE A CITY COMMISSION
MEETING ~~THIS~~ ^{AT 5:00} NITE - WAS GOING TO
RECOMMEND CITY OFFER HOOK-UPS TO
PEOPLE WHOSE WELLS MAY BE AFFECTED,
AND ESTABLISH OUTSIDE HOOK-UP RATE

5:30 CALLED MRS. WENDT AND INFORMED
HER OF CITY'S PROPOSED ACTION -
SHE IS TO LET US KNOW IF SHE
DOES NOT GET SATISFACTION

CUSTER

- 8-12-75 AT 9:15 WE HAD A PHONE CALL FROM MRS DONALD WENDT AT BUELAN, WYO. WHO HAS A WELL NEAR CUSTER SUPPLYING RETAL PROPERTY FOR 3 UNITS. STATED THAT SHE WAS OUT OF WATER, AND BLAMES CITY OF CUSTER'S PUMPING.
- 10:50 WE CONTACTED JERRY BALDWIN, CITY ATTORNEY, AND HE WAS UNAWARE OF MRS WENDT HAD CONTACTED THE CITY. HE WAS TO CONTACT CITY WATER PEOPLE & CITY ENGR AND GET BACK TO US.
- 3:45 HE CALLED BACK AND INDICATED A MEETING OF THE CITY COMM. HAD BEEN SET FOR THAT NIGHT, AND HE WAS GOING TO RECOMMEND THAT THE CITY ALLOW HOOK-UPS TO THE PEOPLE AFFECTED AND SET A WATER USER RATE. (CITY HAS NOT ALLOWED HOOK-UPS OUTSIDE OF THE CITY LIMITS BEFORE).
- 5:20 CALLED MRS. WENDT AND TOLD HER OF THE CITY'S PLAN-SHE SAID SHE WOULD GO ALONG WITH THIS. TOLD HER TO GET IN TOUCH WITH US IF SHE HAD MORE PROBLEMS.
- 9-4-75 9:30 MRS WENDT CALLED AND INDICATED SHE WAS STILL HAVING PROBLEMS. SHE QUESTIONS WHETHER SHE SHOULD HAVE TO PAY FOR INSTALLATION OF PIPES TO GET WATER TO HER PROPERTY. SHE'S WILLING TO PAY PART OF THE COSTS, BUT FEELS THE CITY HAS SOME RESPONSIBILITY. SHE INDICATED THAT SHE CAN GET SOME WATER WHEN THE CITY PUMP IS OFF, BUT CAN'T GET ANY WHEN THEY ARE PUMPING. WE TOLD HER WE HAD NOT HAD TIME TO GET OUT THERE, BUT WOULD AS SOON AS WE CAN AND TRY AND GET IT STRAIGHTENED OUT

Boulah, Wyoming 82712
December 5, 1975

Jack Pendleton, Mayor
And Members of the City Council
City of Custer
Custer, S.D. 57730
Gentlemen;

In reference to the letter dated November 21, 1975 from the
Water Rights Commission on the request for water application No.
1251-2 I am filing a claim for inconvenience caused by your well.

I had three renters and without water most of the summer they
all moved so I lost the rent money which was over \$150.00

Clark Well Drilling - Custer, S.D. \$200.00
got up and cleaning well.

Lytle's Plumbing and Heating - Custer, S.D. \$83.41
work on well.

Dean Kuper - Pringle, S.D. test hole drilled \$645.00
Lytle's Plumbing & Heating - Custer, S.D. \$1,589.00

Putting in water line and hookup charges.

I also want free water as the law states the water must be furnished.

This does not count the trips to Custer, the telephone calls,
loss of my time and all the rest of the trouble it caused me.

When I am satisfied with this claim I will write to the Water
Rights Commission and let them know we have settled the claim.

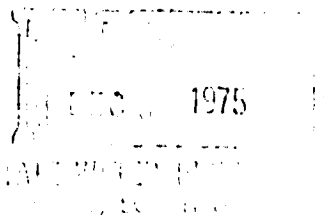
Please advise me on the action you plan to take.

Yours truly

Mrs. Donald Wendt

Mrs. Donald Wendt

cc Jerry Baldwin, City Attorney
Water Rights Commission



October 23, 1975

Attached is a "Report on City of Custer's Water Right Application 1251-2, October 22, 1975", for your information and review. The deferred City of Custer's Water Right Application 1251-2 will be reconsidered by the Water Rights Commission during their November 12-13, 1975 meeting at 10:00 a.m., Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish & Parks, in the Sigurd Anderson Building, Pierre, South Dakota. Please advise if you have any questions concerning the hearing.

Very truly yours,

John Hatch
Chief Engineer

JH/tb

Enclosure

Copies to: Robert C. Bakewell, Jr., 34 North 6th, Custer, SD
Elmer Flatt, Manager, Black Hills Elec. Coop., Box 112, Custer, SD
Douglas Sperlich, Francis-Meador-Gillhaus, Inc., 1823 West
Main, Rapid City, SD
Jerry Baldwin, City of Custer, Custer, SD
Mr. Doyle Johnson, R.R. 1, Custer, SD
Mrs. Donald Wendt, Buelah, Wyoming

Re: 1251-2

January 12, 1976

Mrs. Donald Wendt
Beulah, Wyoming 82712

Dear Mrs. Wendt:

The deferred City of Custer's Water Right Application No. 1251-2 will be reconsidered by the Water Rights Commission during their January 22-23, 1976 meeting, at 10:00 AM January 23, 1976. Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish & Parks in the Sigvard Anderson Building, Pierre, SD 57501. Please advise if you have any questions concerning the hearing.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:nm

Re: 1251-2

January 12, 1976

Mr. Robert C. Bakewell, Jr.
34 North Sixth
Custer, SD 57730

Dear Mr. Bakewell:

The deferred City of Custer's Water Right Application No. 1251-2 will be reconsidered by the Water Rights Commission during their January 22-23, 1976 meeting, at 10:00 AM January 23, 1976. Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish & Parks in the Sigurd Anderson Building, Pierre, SD 57501. Please advise if you have any questions concerning this hearing.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:mle

Re: 1251-2

January 12, 1976

Mr. Doyle Johnson
R. R. #1
Custer, SD 57730

Dear Mr. Johnson:

The deferred City of Custer's Water Right Application No. 1251-2 will be reconsidered by the Water Rights Commission during their January 22-23, 1976 meeting, at 10:00 AM January 23, 1976. Any comments concerning this application can be presented at this hearing.

The Water Rights Commission will be meeting in the Commission Room of the Department of Game, Fish & Parks in the Sigvard Anderson Building, Pierre, SD 57501. Please advise if you have any questions concerning this hearing.

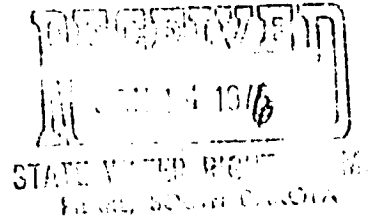
Very truly yours,

John Hatch, Chief Engineer
Water Rights Commission

JH:nlm

LAW OFFICES OF
ROBERT C. BAKEWELL, JR.
34 NORTH 6th
CUSTER, SOUTH DAKOTA 57730
TELEPHONE 606-673-2213

January 13, 1976



Department of Natural Resource Development
State of South Dakota
Water Rights Commission
Office Building Number 2
Pierre, South Dakota 57501

Attention: John Hatch
Chief Engineer
Water Rights Commission

Re: Application No. 1251-2
City of Custer City

Dear Mr. Hatch:

Concerning the above application, which I am advised will be for your consideration at 10:00 o'clock A. M., at your meeting to be held on January 23, 1976, in behalf of my client, the Black Hills Electric Cooperative, Inc., may I reiterate that we feel that if this application is to be granted that it should be conditioned upon some proper adjustment being made in the event that it later turns out that the use of this well interferes in any manner with any well in the general area which is shown to be adversely affected.

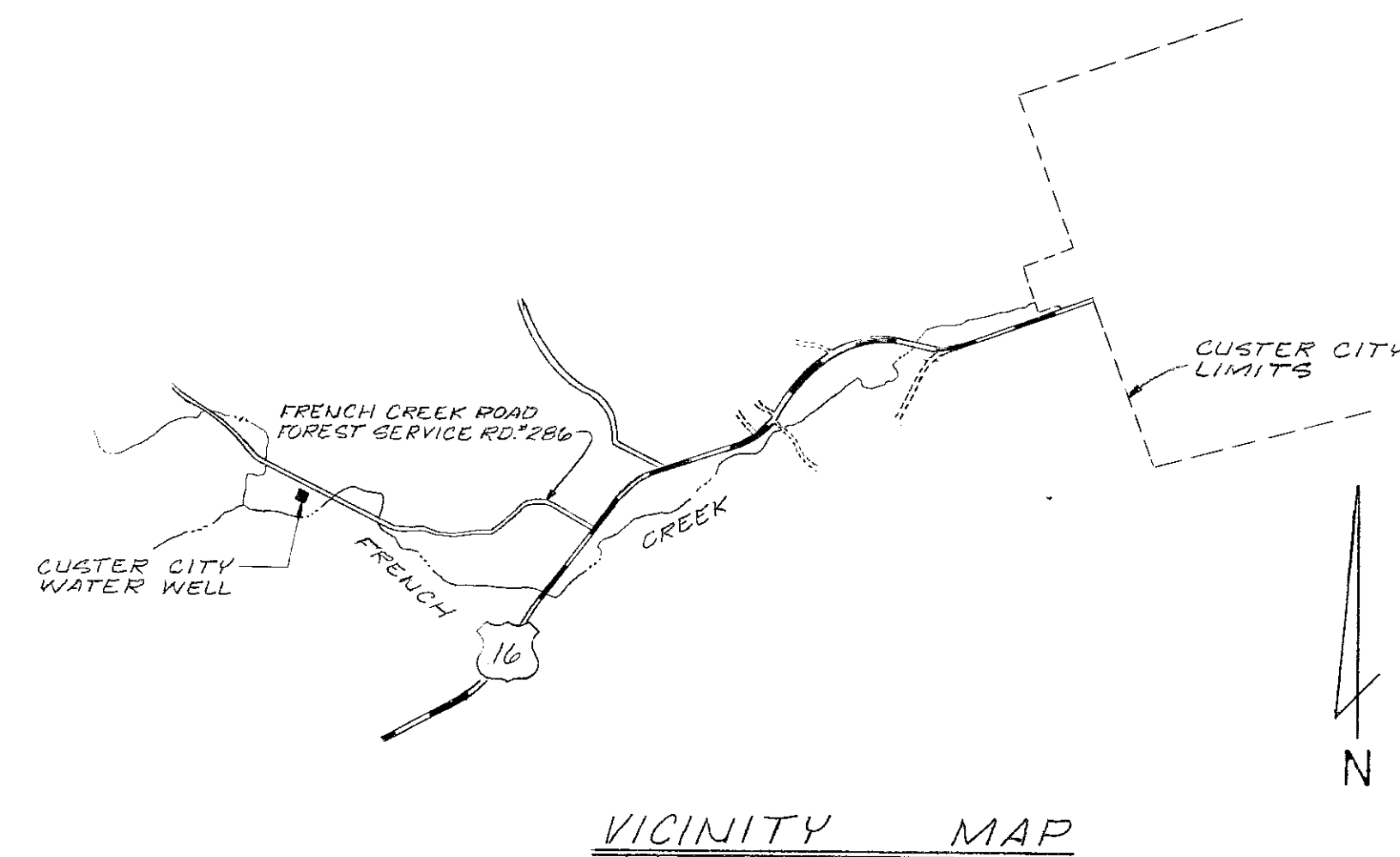
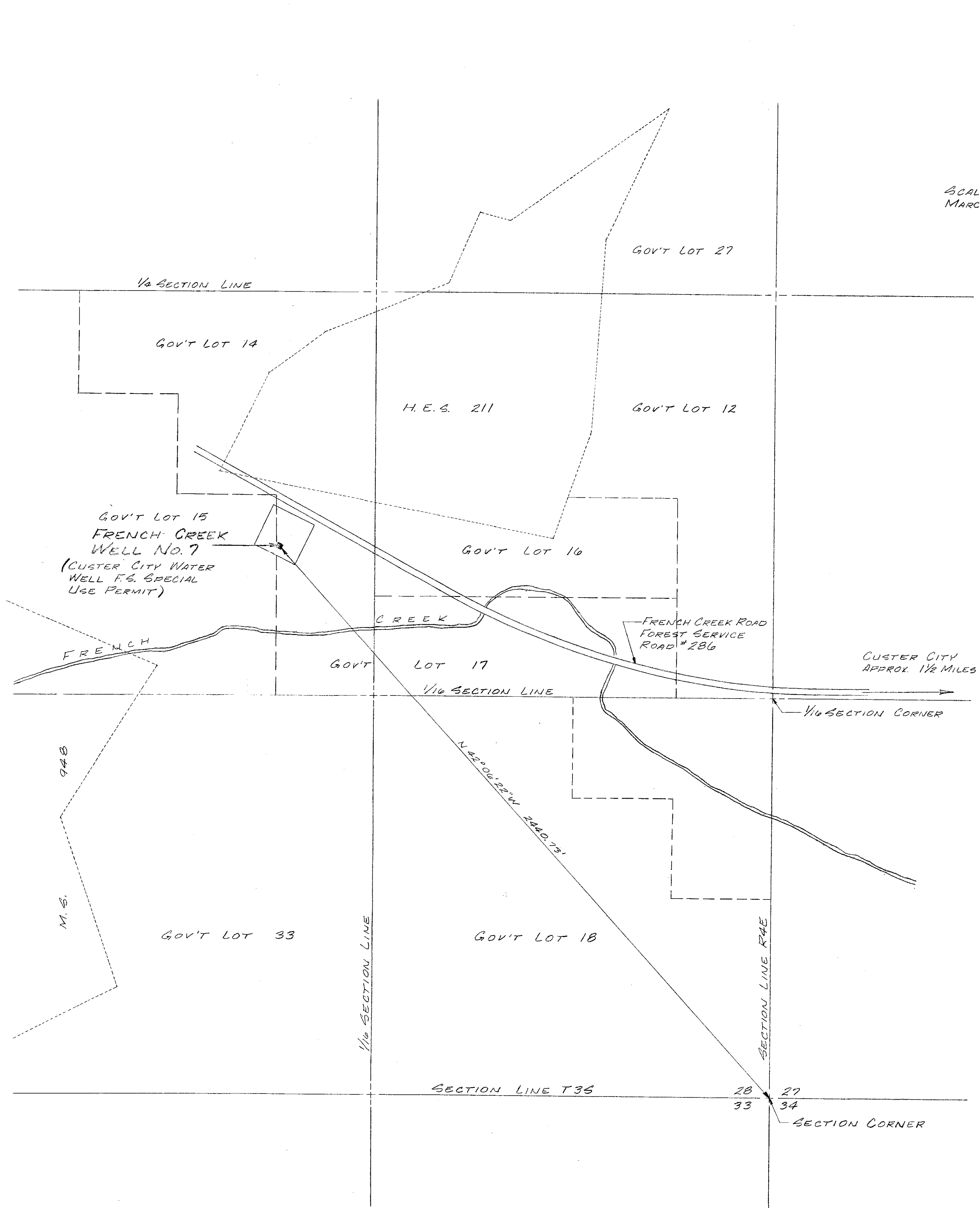
This thought is premised upon the fact that no actual geological study of this area was made, and while it evidently appears that the subject well is separated from my client's well by a dike or other geological formation, it is a known fact that the structures in the Hills have their own peculiarities and the depth of this well could quite possibly still affect other wells in the general area.

We respectfully request that you give these matters your proper consideration.

Respectfully yours,


Robert C. Bakewell, Jr.

RCB/ljb



MAP OF
**FRENCH CREEK
 WELL NO. 7**
 LOCATED IN
 SECTION 28, T36, R4E
 CUSTER COUNTY
 SOUTH DAKOTA

SURVEYOR'S CERTIFICATE

STATE OF SOUTH DAKOTA
 COUNTY OF PENNINGTON S.S.

I, VINAL C. FRANCIS, REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR NO. 625 OF THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT BEING SO AUTHORIZED, I MADE THE SURVEY AND WITHIN MAP OF THE LAND SHOWN AND DESCRIBED HEREON AND THAT THE SAME IS CORRECT AS SHOWN HEREON.

REG. P.E. & L.S.: Vinal C. Francis
 VINAL C. FRANCIS

ON THE 13TH DAY OF March, 1975,
 BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED VINAL C. FRANCIS, KNOWN TO ME TO BE THE PERSON DESCRIBED IN THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME.

NOTARY PUBLIC: Robert J. Nelson
 MY COMMISSION EXPIRES: 9-19-78

